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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,950	02/03/2004	Scott Jacobs	130135	3768
<div>7590 10/25/2007 Law Offices of John S. Munday PO BOX 423 Isanti, MN 55040</div>				
			EXAMINER CHAN, SING P	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 10/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/771,950	Applicant(s) JACOBS ET AL.	
	Examiner Sing P. Chan	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group II, claims 11-20 in the reply filed on October 19, 2006 is acknowledged. Examiner noted the non-elected claims have been cancelled without prejudice to filing a divisional application.

Claim Interpretation

2. The claims are in the format of means plus function, which invoked the 35 U.S.C. 112 Sixth paragraph. Therefore, the claims will be interpreted as means plus function and all equivalents will read on the claims.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for supply means, container means, bleach spray means and plastic sheet means, does not reasonably provide enablement for cooling means and packaging means. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The claims are interpreted under 35 U.S.C. 112, sixth paragraph, which required the specification to support or disclose the means for performing the function of the recited means. However, the examiner did

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not find any recitation in the specification for devices or apparatus or means for performing the cooling and packaging of the article.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 14, as interpreted under 35 U.S.C. 112 Sixth paragraph, the claims are in the format of means plus function, which required the specification to recite various means or a means for performing the stated functions. However, the examiner cannot find any recitation in the specification for packaging means for packaging the individual strips and cooling means for cooling the wax. Therefore, these features are not supported by the specification.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11-16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (GB 2,287,481) in view of Sagel et al (U.S. 6,136,297) and Curtis et al (U.S. 6,270,890).

Regarding claims 11, 13, and 14, Lloyd discloses an apparatus for applying wax to a woven cloth. The apparatus includes supply roll (2) for supplying a woven cloth web (3), the web is delivered to a wax bath (10) around rollers (11) within the bath (10) (Page 6, lines 5-7 and Page 6, line 21-27), a plastics web (17) is supplied from a supply roll (18) to adhere to the wax saturated web (3) (Page 7, lines 1-4), cooling rollers (20, 21, 22) are provided to cool the web (3) (Page 7, line 5-15), and a cutting station (88) cut the web into sheets of a pre-desired length and discharged by conveyor to a packing station for packaging (Page 9, lines 25-33). Lloyd is silent as to the apparatus includes a bleach spray means for applying a bleaching solution. However, providing a bleaching solution to a dental material by spraying or using a sprayer is well known and conventional as shown for example by Curtis et al. Curtis et al discloses a method of forming a dental floss. The method includes applying medicaments such as antibacterial agent, coagulants, calcium ions, blood factors, flourides, antibiotics, anti-inflammatory, anticalculus agent, desentisizing agents, and peroxides, which is a form of bleaching agent (Col 3, lines 5-23) by spraying (Col 2, lines 64-66) onto the wax coating floss (Col 3, lines 57-58). Furthermore, Curtis et al discloses the flavorent or medicaments can be applied to the still molten wax coating (Col 3, lines 2-3), which the examiner interpreting as the additive can be applied to the wax while still molten or preferably cooled and Sagel et al discloses using a strip of material such as polymers, natural and synthetic woven materials, non-woven material, foil, paper, rubber in forming an oral care delivery system (Col 4, lines 33-35). Therefore, one of ordinary skill in the art reading Lloyd, Sagel et al, and Curtis et al would appreciate if the woven cloth

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material is to be used to applying medicaments in a dental area, it would be logical to provide a sprayer to applying the medicaments such as peroxides to the wax coated web after cooling the wax and prior to applying the plastic film of Lloyd, which are bleaching compounds to protect the surface from contamination.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to logically provide a sprayer for applying medicaments to a wax coated material as disclosed by Sagel et al and Curtis et al in the apparatus of Lloyd to provide simple means to apply medicament to dental area or teeth.

Regarding claim 12, Lloyd as modified above discloses the web is a woven cloth but is silent as to the web is a cheese cloth, non woven natural fiber fabric, woven natural fiber fabric, non woven synthetic fiber fabric, woven synthetic fabric, paper. However, as are these features are related to the article of manufacture, which would be considered as intended used, and therefore, the apparatus is capable of operating on the article would read on the claim. The examiner is providing Sagel et al to provide further evidences of using polymers, natural and synthetic woven material, non woven materials, foil, rubber and paper and combination thereof is well known and conventional. Sagel et al discloses oral care delivery system, which includes strip material with oral care substance (Col 3, lines 33-35). The material for forming the strip includes using polymers, natural and synthetic woven material, non woven materials, foil, rubber and paper and combination thereof. (Col 4, lines 33-35)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the strip material as polymers, natural and synthetic

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woven material, non woven materials, foil, rubber and paper and combination thereof as disclosed by Sagel et al in the apparatus of Lloyd as modified by Curtis et al to provide low cost commercial oral care that is comfortable to wear and deliver a sufficient amount of an oral care substance. (See Sagel et al, Col 1, lines 24-27)

Regarding claims 15 and 16, as recited above, the claimed features are directed to article of manufacture and therefore is considered as intended used and furthermore, Sagel et al discloses the thickness of the strip materials is generally less than 1 mm or less than 0.039 inches (Col 4, lines 45-51).

It would have been obvious to one of ordinary skill in the art at the time the invention to provide the material in the thickness of less than 0.039 inches as disclosed by Sagel et al in the apparatus of Lloyd as modified by Curtis et al to provide low cost commercial oral care that is comfortable to wear and deliver a sufficient amount of an oral care substance. (See Sagel et al, Col 1, lines 24-27)

Regarding claims 19 and 20, as recited above, the claimed features are directed to article of manufacture and therefore is considered as intended used and furthermore, Sagel et al discloses the strip of material can any shape and sized that covers the desired oral surface (Col 4, lines 52-54) and includes folding into a three dimensional tray (See Figure 8).

It would have been obvious to one of ordinary skill in the art at the time the invention to provide the strip of material in any shape and sized that covers the desired oral surface as disclosed by Sagel et al in the apparatus of Lloyd as modified by Curtis

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et al to provide low cost commercial oral care that is comfortable to wear and deliver a sufficient amount of an oral care substance. (See Sagel et al, Col 1, lines 24-27)

9. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (GB 2,287,481) in view of Curtis et al (U.S. 6,270,890) and Sagel et al (U.S. 6,136,297) as applied to claim 16 above, and further in view of Guyton (U.S. 4,029,113).

As recited above, the claimed features are directed to article of manufacture and therefore is considered as intended used and furthermore, Guyton discloses the wax for coating dental textile includes paraffin wax (Col 3, lines 35-52) and maybe in a solution of in about 5-75% by weight (Col 4, lines 46-52).


It would have been obvious to one of ordinary skill in the art at the time the invention to the wax for coating dental textile includes paraffin wax and maybe in a solution of in about 5-75% by weight as disclosed by Guyton in the apparatus of Lloyd as modified by combination of references to provide a waxed dental textile with the important benefit of inhibiting the formation of caries in the cleaned teeth. (See Guyton, Col 1, lines 46-49)


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P. Chan whose telephone number is 571-272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


SPC


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